



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/981,507

10/16/2001

Darrell G. Meyer

344.07-US2

6731

34284

7590

02/06/2007

Hani Z. Sayed, Esq.
c/o Rutan & Tucker, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/981,507

Applicant(s)

MEYER, DARRELL G.

Examiner

Winnie Yip

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant has suggested an interference pursuant to 37CFR 1.608(b) which has been enforced by 37 CFR 41.202(a) in a communication filed September 16, 2001.

However, the application has not been complied with one or more following conditions:

A. Under 37CFR 1.608 (b), applicant failed to provide a statement under 37CFR 1.608(b) with corresponding evidence which including an allegation of earlier filing date **and** an affidavit or declaration by a corresponding witness. See 37CFR 1.608(b).

B. Under 37 CFR 41.202 (a), application has not been complied with 37 CFR 41.202(a)(3), (5),(6) and MPEP § 2304.02(c) as following:

a. Applicant failed to provide a claim chart comparing at least one claim of **each party** corresponding to the count. See 37 CFR 41.202(a)(3) and MPEP § 2304.02(c).

b. Applicant failed to provide a detailed explanation as to why applicant will prevail on priority. See 37 CFR 41.202(a)(4), (a)(6), (d) and MPEP § 2304.02(c).

c. Claims 29-56 have been added or amended to provoke an interference. However, applicant has not provided a claim chart showing the written description for **each claim** in the applicant's specification. See 37 CFR 41.202(a)(5) and MPEP § 2304.02(d).

Applicant must provide complete documents to comply with 37 CFR 41.202 (a) in order to provoke an interference. See MPEP § 2304.02.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. This application appears to be a division of Application No.09/890,514 which was filed October 12, 2001. However, applicant's

Art Unit: 3636

preliminary amendment filed on October 16, 2001, at the first line of the specification, indicated the priority data of the earlier application 09/890,514 was March 31, 2001. This is not consistent with the USPTO record. In order to receive the benefit of an earlier filing date under 35 U.S.C. 120, an appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 32, 48, and 54-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matters that were not sufficiently described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regard to claim 32, the subject matter of “a thickness in the range of from approximately 16-gauge to approximately 24-gauge” was not described in the specification as originally filed. The specification, page 7, only defines the chords being made of sheet of metal of “various gauges steel including, but not necessarily limited to 18-gauge and 20-gauge”. The specification does not define the range from “approximately 16-gauge to approximately 24-gauge” as claimed.

Regard to claim 48, the subject matter of “the flat web walls further comprise a first pair of web wall sections, ... extending from one of the angular support walls on the upper chord, a

Art Unit: 3636

second pair of web wall sectionsextending from one of the angular support walls on the lower chord “ does not read on the embodiments of the application as described in the specification as originally filed. The specification and drawings only define a first web wall and a second web wall extending from the upper and lower chords, and a main web wall extending between the upper and lower chord.

Regard to claim 54, the subject matter of “an angular support wall,extending from one of the side walls” and “a main substantially flat web wall extending **straight** between another of the side walls on each of the chords” (lines 4-8) does not read on the embodiments of the application as described in the specification as originally filed.

Regard to claim 56, the subject matter of “the two beam components being disposed with respect to each other such that the web walls of one of the beam components **overlap** the web walls of the other of the beam components” (lines 10-12) does not read on the embodiments of the application as described in the specification as originally filed.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3636

6. Claims 29-56 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Buecker (U.S. Patent No.6,131,362). Buecker '362 teaches all structural limitation as claimed.

Citations

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references cited in the reference to Buecker are cited for some features as relevant to the claimed invention. See attached form PTO-892.

Inquiry Contacts

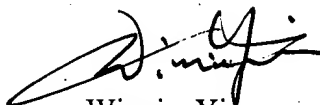
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3636

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'W. Yip', is positioned above the printed name.

Winnie Yip
Primary Examiner
Art Unit 3636

wsy
January 30, 2007